

# **EXHIBIT B**

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Attorneys for Defendants C. R. Bard, Inc. and  
Bard Peripheral Vascular, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability  
Litigation,

No. MD-15-02641-PHX-DGC

**SUPPLEMENTAL RESPONSES TO  
PLAINTIFFS DORIS AND ALFRED  
JONES'S FIRST SET OF  
REQUESTS FOR ADMISSION TO  
BARD PERIPHERAL VASCULAR,  
INC.**

DORIS JONES and ALFRED JONES, a  
married couple,

Plaintiffs,

v.

C.R. BARD, INC., a New Jersey  
corporation and BARD PERIPHERAL  
VASCULAR, an Arizona corporation,

Defendants.

1 which Defendants cannot be aware of the contents of every conversation or physician  
2 education event attended by, sponsored by, or offered by Defendants, as a result, this  
3 Request is overbroad and unduly burdensome.

4 **SUPPLEMENTAL RESPONSE:**

5 Defendant objects to this Request on the grounds that the undefined term “you” if  
6 vague and ambiguous and is likely to include Defendants’ agents. Defendants cannot be  
7 aware of the contents of every conversation or physician education event attended by,  
8 sponsored by, or offered by Defendants. Defendant further states that Defendant is not  
9 engaged in the practice of medicine. Defendant further refers Plaintiff to the information  
10 provided in the pertinent Instructions for Use. As a result, this Request is denied.

11 **REQUEST FOR ADMISSION NO. 11:**

12 Admit that Plaintiff was an appropriate candidate for implantation of the Eclipse  
13 IVC Filter on August 24, 2010.

14 **RESPONSE:**

15 Defendant objects to this Request on the grounds that it is untimely as described  
16 fully in Defendant’s Preliminary Statement and Objection, which is incorporated herein  
17 by reference. Defendant further objects to this Request on the ground that the term  
18 “appropriate candidate for implantation” is undefined, vague, and ambiguous.

19 **SUPPLEMENTAL RESPONSE:**

20 Defendant objects to this Request on the ground that the term “appropriate  
21 candidate for implantation” is undefined, vague, and ambiguous. Defendant further notes  
22 that a determination of whether or not to prescribe or use any implantable medical device  
23 is a decision within the discretion of the treating physicians. Subject to and without  
24 waiving its objection, and based on information known to date, Defendant admits that  
25 Plaintiff was properly indicated for the subject filter.

26 **REQUEST FOR ADMISSION NO. 12:**

27 Admit that placement of the Eclipse IVC Filter in Plaintiff on August 24, 2010,  
28 was appropriately indicated.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference. Defendant further objects to this Request on the ground that the term "appropriately indicated" is undefined, vague, and ambiguous.

**SUPPLEMENTAL RESPONSE:**

Defendant objects to this Request on the ground that the term "appropriate candidate for implantation" is undefined, vague, and ambiguous. Defendant further notes that a determination of whether or not to prescribe or use any implantable medical device is a decision within the discretion of the treating physicians. Subject to and without waiving its objection, and based on information known to date, admitted.

**REQUEST FOR ADMISSION NO. 13:**

Admit that Plaintiff met the indications for use for implantation of an Eclipse IVC Filter on August 24, 2010.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Denied as stated. The IFU for the filter at issue contains a section regarding "Indications for Use," which contains a number of indications for use. Defendant denies that Plaintiff met all of the listed indications for use. In addition, as with any prescription device or medication, physicians may, and do, use the filter in patients who do not meet the indications for use as set forth in the IFU. A determination of whether or not to prescribe or use any implantable medical device is a decision within the discretion of the treating physician. Subject to and without waiving its objections, based on information known to date, Bard admits that Plaintiff met one or more of the indications for use contained in the IFU.

**REQUEST FOR ADMISSION NO. 14:**

Admit that that the actions of Anthony Avino, M.D., in implanting the Eclipse IVC Filter in Plaintiff met the applicable standard of care.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 15:**

Admit that Anthony Avino, M.D. was not negligent in choosing to implant the Eclipse IVC Filter in Plaintiff.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 16:**

Admit that you do not contend Anthony Avino, M.D. failed to obtain Plaintiff's informed consent prior to implanting the Eclipse IVC Filter in her.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 20:**

Admit that Anthony Avino, M.D., did not cause any of the injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 21:**

Admit that Anthony Avino, M.D., did not contribute to any of the injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference. Defendant further objects to this Request to the extent the term "contribute" is undefined, vague, and ambiguous.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 22:**

Admit that the actions of Anthony Avino, M.D., were not a factor in producing the injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference. Defendant further objects to this Request on the grounds that the term "factor" is undefined, vague, and ambiguous.

**SUPPLEMENTAL RESPONSE:**

Defendant objects to this Request to the extent the term “factor” is undefined, vague, ambiguous, and not a legal term. Subject to and without waiving its objection, admitted.

**REQUEST FOR ADMISSION NO. 23:**

Admit that you do not contend that Anthony Avino, M.D., is responsible for any of the injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant’s Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 24:**

Admit that that the actions of Kirsten Nelson, M.D., in retrieving the Eclipse IVC Filter from Plaintiff on April 23, 2015, met the applicable standard of care.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant’s Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 25:**

Admit that Kirsten Nelson, M.D., was not negligent in choosing to retrieve the Eclipse IVC Filter from Plaintiff on April 23, 2015.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant’s Preliminary Statement and Objection, which is incorporated herein

1 by reference.

2 **SUPPLEMENTAL RESPONSE:**

3 Based on the information currently known to Defendant, admitted.

4 **REQUEST FOR ADMISSION NO. 26:**

5 Admit that the decision by Kirsten Nelson, M.D., to remove the Eclipse IVC Filter  
6 from Plaintiff on April 23, 2015, was not negligent.

7 **RESPONSE:**

8 Defendant objects to this Request on the grounds that it is untimely as described  
9 fully in Defendant's Preliminary Statement and Objection, which is incorporated herein  
10 by reference.

11 **SUPPLEMENTAL RESPONSE:**

12 Based on the information currently known to Defendant, admitted.

13 **REQUEST FOR ADMISSION NO. 27:**

14 Admit that the decision by Kirsten Nelson, M.D., not to attempt to retrieve the  
15 filter fragment from the pulmonary artery of Plaintiff was not negligent.

16 **RESPONSE:**

17 Defendant objects to this Request on the grounds that it is untimely as described  
18 fully in Defendant's Preliminary Statement and Objection, which is incorporated herein  
19 by reference.

20 **SUPPLEMENTAL RESPONSE:**

21 Based on the information currently known to Defendant, admitted.

22 **REQUEST FOR ADMISSION NO. 28:**

23 Admit that Kirsten Nelson, M.D., did not cause any of the injuries claimed by  
24 Plaintiff in this lawsuit.

25 **RESPONSE:**

26 Defendant objects to this Request on the grounds that it is untimely as described  
27 fully in Defendant's Preliminary Statement and Objection, which is incorporated herein  
28 by reference.



**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 29:**

Admit Kirsten Nelson, M.D., did not contribute any of the injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 30:**

Admit that the actions of Kirsten Nelson, M.D., were not a factor in producing injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference. Defendant further objects to this Request on the grounds that the term "factor" is undefined, vague, and ambiguous.

**SUPPLEMENTAL RESPONSE:**

Defendant objects to this Request to the extent the term "factor" is undefined, vague, ambiguous, and not a legal term. Subject to and without waiving its objection, based on the information currently known to Defendant, admitted.

**REQUEST FOR ADMISSION NO. 31:**

Admit that you do not contend that Kirsten Nelson, M.D., is responsible for any of the injuries claimed by Plaintiff in this lawsuit.

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described

1 fully in Defendant's Preliminary Statement and Objection, which is incorporated herein  
2 by reference.

3 **SUPPLEMENTAL RESPONSE:**

4 Based on the information currently known to Defendant, admitted.

5 **REQUEST FOR ADMISSION NO. 32:**

6 Admit that Plaintiff's injuries claimed in this lawsuit were not cause by abuse,  
7 misuse, abnormal use, or use of the Eclipse IVC Filter in a manner not intended by  
8 Defendants.

9 **RESPONSE:**

10 Defendant objects to this Request on the grounds that it is untimely as described  
11 fully in Defendant's Preliminary Statement and Objection, which is incorporated herein  
12 by reference.

13 **SUPPLEMENTAL RESPONSE:**

14 Based on the information currently known to Defendant, admitted.

15 **REQUEST FOR ADMISSION NO. 33:**

16 Admit that Plaintiff's injuries claimed in this lawsuit were not caused by a  
17 substantial change in the Eclipse IVC Filter after leaving the possession, custody, and  
18 control of Defendants but before implantation in Plaintiff.

19 **RESPONSE:**

20 Defendant objects to this Request on the grounds that it is untimely as described  
21 fully in Defendant's Preliminary Statement and Objection, which is incorporated herein  
22 by reference.

23 **SUPPLEMENTAL RESPONSE:**

24 Based on the information currently known to Defendant, after reasonable inquiry,  
25 Defendant cannot admit or deny the Request because it has no knowledge, despite  
26 completion of all discovery in this case, about what happened to the Bard filter after it left  
27 the possession, custody, and control of Defendant but before implantation in Plaintiff.  
28

**RESPONSE:**

Defendant objects to this Request on the grounds that it is untimely as described fully in Defendant's Preliminary Statement and Objection, which is incorporated herein by reference.

**SUPPLEMENTAL RESPONSE:**

Based on the information currently known to Defendant, admitted.

Any and all Requests not specifically admitted herein are denied.

This 21<sup>st</sup> day of August, 2017.



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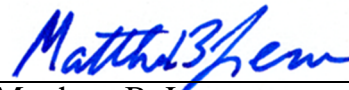
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the above and foregoing has been served by First Class postage prepaid U.S. Mail on August 21, 2017, to the following:

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